

May 17, 2012

VIA ECFS

EX PARTE

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW, Room TW-A325
Washington, DC 20554

Re: *Developing a Unified Intercarrier Compensation Regime; Establishing Just and Reasonable Rates for Local Exchange Carriers; Connect America Fund; High-Cost Universal Service Support; A National Broadband Plan for Our Future, CC Dkt. No. 01-92, WC Dkt. Nos. 07-135, 10-90, & 05-337, GN Dkt. No. 09-51*

On May 15, 2012, Fritz Hendricks, President of Onvoy, Inc., Scott Sawyer, General Counsel of Onvoy, Inc., and the undersigned met with Victoria Goldberg, Randy Clarke, and Travis Litman of the Wireline Competition Bureau. The attached materials describe the substance of the presentation during the meeting. In addition, we explained that, in order to address the technical obstacles associated with implementing bill and keep for intra-MTA traffic exchanged between wireline LECs and CMRS providers, the Commission should permit a wireline LEC to assess originating access charges on intraMTA calls where the wireline LEC originates the call and transmits it to an unaffiliated interexchange carrier which then transmits the call to a CMRS provider for delivery to the called party.

Please do not hesitate to contact me at (202) 303-1111 if you have any questions or concerns about this submission.

Respectfully submitted,

/s/ Thomas Jones
Thomas Jones
Counsel for Onvoy, Inc.

cc (via email): Victoria Goldberg
Randy Clarke
Travis Litman

Enclosures

Ex Parte Presentation of Onvoy, Inc

In Connection with Onvoy's Petition for Reconsideration or Clarification; Access Stimulation Rules; LEC to CMRS Traffic Routed through an IXC; and Issues Raised in the FNPRM Regarding Stand-Alone Tandem Access Providers

Fritz Hendricks, President
Onvoy

Scott Sawyer, General Counsel
Onvoy

Thomas Jones
Willkie Farr and Gallagher

May 15, 2012

The FCC should grant Onvoy's Petition for Clarification or Reconsideration regarding pre-existing VoIP-PSTN Bill and Keep Interconnection Agreements

- The Commission supports bill and keep provisions in interconnection agreements:
 - Adoption of bill and keep will further a number of policy goals. Paras 741-752
 - The Commission has described the "significant policy advantages" of bill and keep. Para 738
 - Bill and keep "best advances the ... public interest, driving greater efficiency in the operation of telecommunications networks and promoting the deployment of IP-based networks." Paras 737, 741, 742, 738
- The Commission favors negotiated agreements over the tariffing of default rates:
 - "[I]n the absence of an agreement for different intercarriers compensation," LECs are permitted to tariff default rates for toll VoIP-PSTN traffic. Paras 944-945
- The Commission should clarify that pre-existing VoIP-PSTN bill and keep interconnection agreements should remain in force, even if the agreement contains a change in law:
 - The change of law in the Order should only apply to carriers that did not have an existing agreement to exchange VoIP-PSTN traffic on a bill and keep basis
 - Allowing carriers that have been exchanging traffic under bill and keep to begin charging higher transition default rates undermines the Commission's goals
- The Commission should reject CenturyLink's unsupportable assertions that the transitional default rates are an offset to the reductions required elsewhere in the Order

Access Stimulation – Definition of “End User”

Not all carriers in the call path have end users, therefore the FCC should reject Sprint's request for clarification

- Sprint's suggestion that under the *Farmers* case if an entity does not qualify as an “end user” under the LEC's access tariff, calls generated by that entity do not constitute access under the *Order* mischaracterizes the fact-specific determination in *Farmers* by suggesting it usurps, rather than complements, the FCC's access stimulation rules
- The holding the Commission reached in *Farmers* cannot be automatically extended to other carriers whose tariffs contain different language
- The Sprint proposal is a reformulation of an argument Sprint made in its comments that traffic directed to access stimulators can never be subject to access, which the Commission declined to adopt
- Adopting Sprint's proposal is inappropriate, particularly for providers of stand-alone tandem access, which provide access but do not serve end users
- Collection of access charges by stand alone tandem providers should not depend on whether traffic traversing their networks originates from or terminates to an entity that qualifies as an end user under the downstream LEC's tariff

Access Stimulation – “Telecommunications Service”



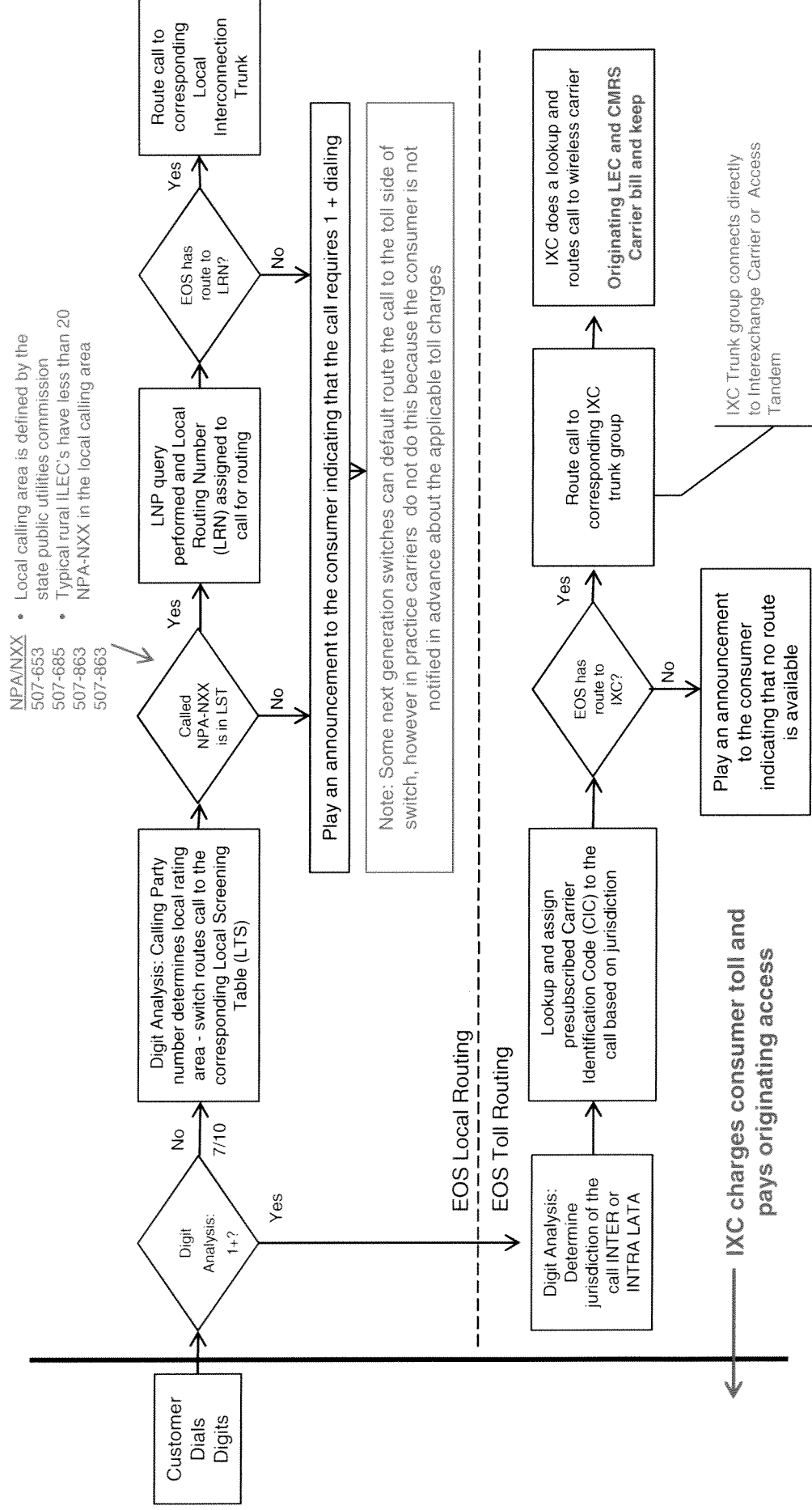
Sprint’s request that the a carrier cannot charge access on a call that is not a “telecommunications service” is not supported by the Order

- The FCC should also reject Sprint’s request for clarification that the definition of “telecommunications service” forecloses the application of access charges if the LEC does not provide “telecommunications for a fee.”
- The Order clearly permits LECs to assess access charges for the transmission of VoIP traffic despite the fact the FCC has not ruled that VoIP is a telecommunications service
- Sprint’s proposal fails to account for providers of stand alone tandem service, whose customers are IXCs and who have no ability to monitor what services the downstream LEC may be providing to its customers.
- Accordingly, the Commission should not prohibit the collection of tandem switched access charges for calls to and from parties that are not purchasers of “telecommunications services”

Overview Today



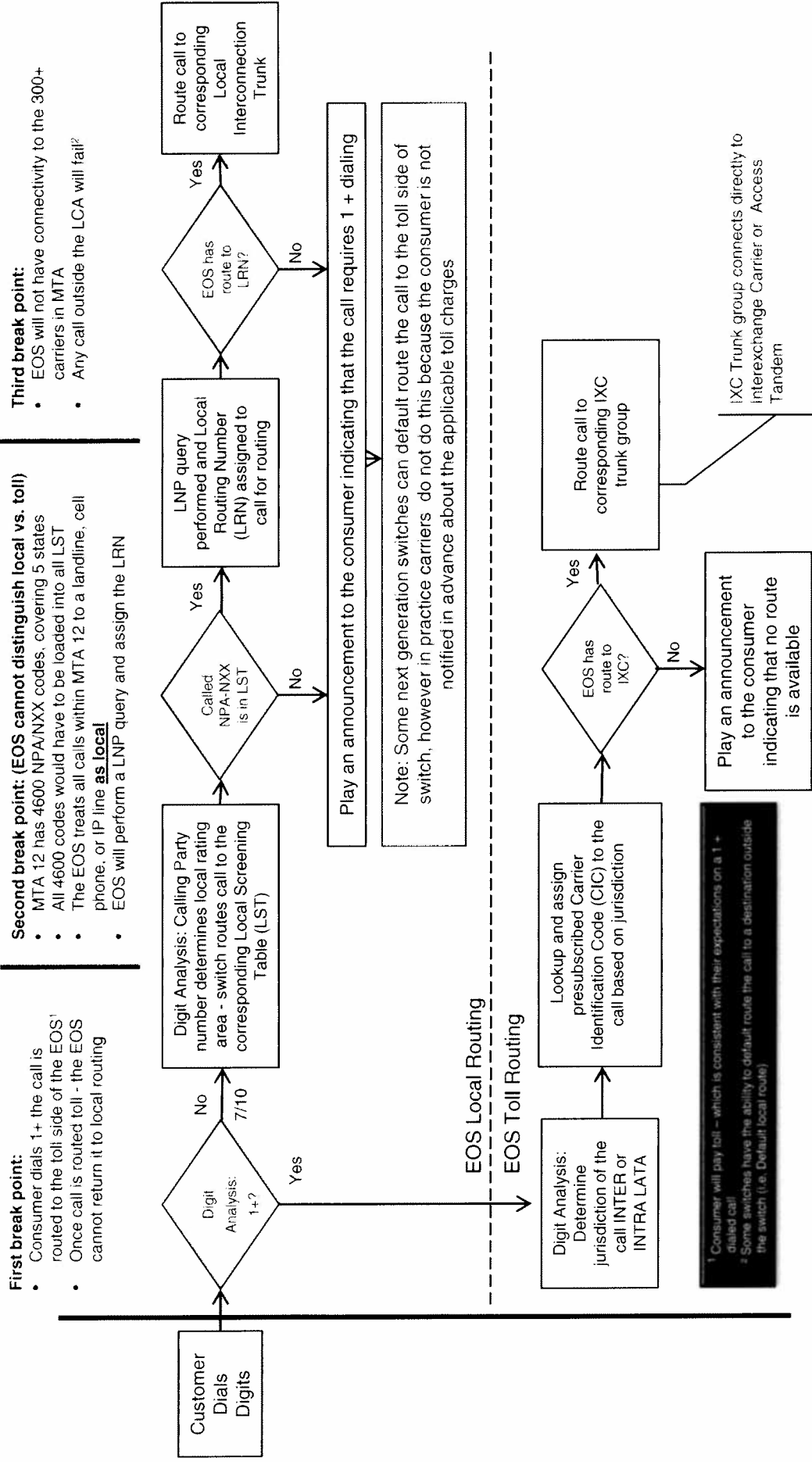
The Commission should consider technical capabilities of today's End Office Switch (EOS) outbound routing when determining the final Intra-MTA rule



Overview – IntraMTA as Local



If the entire MTA area is included in the Local Calling Area the EOS will have no technical means to discern the difference between a local, toll or Intra-MTA call



FNPRM - Stand-Alone Tandem Service

Bill and keep should not apply to stand-alone tandem service because there is no end user from whom to recover the revenue

- In the *FNPRM*, the Commission sought comment on whether and how to transition tandem access rates where *different carriers* own the tandem switch and the end office subtending the tandem
- The FCC should clarify that the transition to bill and keep does not apply to providers of terminating tandem access service when such providers do not own the terminating end office
- The FCC should clarify that the transition to bill and keep does not apply to providers of originating tandem access charges when such providers do not own the originating end office
- This approach makes sense because providers of stand-alone tandem service do not have end users from whom to recover the costs of termination and origination
- In all events, the FCC does not have the jurisdiction to regulate originating tandem access service for intrastate toll traffic